



S.N.: 09/716,890

DAC #3

Docket No. 460-001 Continuation IV

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application

DAVID N. S. HON ET AL.

Serial No. 09/716,890

Group Art Unit: 1633

Filed: November 20, 2000

For: COMPOSITIONS OF OAK BARK
EXTRACT RELATED SYNTHETIC
COMPOSITIONS AND METHOD OF
USING SAME

Office of Petitions
Assistant Commissioner for Patents
Washington, DC 20231

PETITION PURSUANT TO 37 CFR 1.53 (e)(2)

Dear Sir:

This Petition is responsive to the Notice Of Incomplete Nonprovisional Application directed to the above-styled continuation patent application, Serial No.

09/716,890 and mailed from the Patent and Trademark Office on March 19, 2001.

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Applicant was given a period of two months from the date of the notice to respond, namely until May 19, 2001, thus Petitioner's response is believed to be timely. A copy of the notice is submitted herewith as Exhibit A.

The instant continuation application is a continuation of prior application Serial Number: 08/947,055, filed on October 8, 1997 which issued on November 21, 2000, as U.S. Patent Number 6,149,947. The instant continuation application was filed on November 20, 2000, claiming the benefit of priority, through co-pendency, of prior application Serial Number: 07/973,071, filed November 6, 1992, the status of which is now abandoned.

The undersigned attorney unintentionally filed the instant continuation application under 37 CFR §1. 53 (d) rather than the intended and appropriate filing under 37 CFR §1. 53 (b). A copy of the Utility Patent Application Transmittal sheet with the inadvertent error highlighted is submitted herewith as Exhibit B.

The filing of the instant continuation application under 37 CFR §1. 53 (d) was an inadvertent clerical error by this office and was without deceptive intent. The issue fee had already been paid in the co-pending parent case, prior application Serial Number: 08/947,055, which issued the next day as U.S. Patent Number 6,149,947. Thus, the

instant continuation application should properly have been filed under 37 CFR §1. 53 (b). Petitioner notes that Box Number 2 under "Application Elements" in the Utility Patent Application Transmittal sheet submitted on November 20, 2001 (*see*, the highlighted portion of Exhibit B) was inadvertently not checked and, therefore, a copy of the parent specification and a copy of the original Oath or Declaration was not submitted with the filing.

Accordingly, submitted herewith is a copy of the original specification, as filed, in the parent case, Serial Number 07/973,071 (Exhibit C) and a copy of the original Oath or Declaration (Exhibit D). Therefore, by the timely submission of these documents as requested in the Notice Of Incomplete Nonprovisional Application, Petitioner respectfully requests that the instant continuation application be accorded the original filing date of November 20, 2000. A refusal to grant the original filing date would mean a loss of co-pendency and a claim to priority in the parent applications and would unduly prejudice applicants for the above-described inadvertent clerical error.

Applicants therefore respectfully petition to have this inadvertent error corrected by the acceptance of this timely submitted petition and the appropriate documents and respectfully request that the Commissioner grant a filing date of November 20, 2000 for the instant continuation application.

The Commissioner is hereby authorized to debit deposit account number 11-0978 in the amount of \$130.00 which is the fee for the instant petition, as required by 37 CFR 1.17(i). The Commissioner is also authorized to charge any additional fees which may be due and to credit any overpayment or refund of the petition fee should such a refund be deemed appropriate.

Respectfully submitted,

KING AND SCHICKLI



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CERTIFICATE OF MAILING
I hereby certify that this correspondence
is being deposited with the United States Postal
Service in an envelope addressed
to: Office of Petitions, Assistant Commissioner for Patents,
Washington, D.C. 20231, on May 18, 2001 Date,
By: J.W. Seanor D.V.M.

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